

DEPARTMENT OF TRANSPORTATION

Research and Special Programs
Administration

49 CFR Part 172 and 173

[Docket No. HM-100-O; Amend. No. 172-91,
173-174]

Deletion of Certain Commodity Entries

AGENCY: Materials Transportation
Bureau (MTB), Research and Special
Programs Administration, DOT.

ACTION: Final rule; petitions for
reconsideration and corrections.

SUMMARY: The purpose of this document is to respond to eleven petitions for reconsideration of the final rule issued under this Docket. Ten of these petitions are granted, in part, by restoring the proper shipping name "Resin solution", Flammable liquid. That entry was removed without prior notice as required by the Administrative Procedure Act. Another petition, which sought to stay the effective date of the final rule until such time as the proper shipping names are removed from corresponding international regulations, is denied. In addition, two editorial errors which appeared in the final rule are corrected.

EFFECTIVE DATE: These amendments are effective September 30, 1984, however, compliance with the regulations as hereby amended is authorized as of April 6, 1984.

FOR FURTHER INFORMATION CONTACT: Irving R. Ables, Exemptions and Regulations Termination Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 400 7th Street SW., Washington, D.C. 20590. (202) 472-2726.

SUPPLEMENTARY INFORMATION: On November 17, 1983, MTB published a

final rule in Docket HM-100-0 (48 FR 52300) which removed certain entries (proper shipping names) from the Hazardous Materials Table (HMT) § 172.101, effective September 30, 1984. The MTB received eleven petitions for reconsideration of that rule. The following is a summary of the petitions.

One petitioner complained that removing entries from the HMT results in inconsistencies between the two tables found in §§ 172.101 and 172.102. MTB wrote to this petitioner asking for further clarification of that complaint. In response, the petitioner modified the petition by urging MTB to make the rule effective only after international bodies delete the same entries from their list of shipping names. The petitioner contends that requiring different proper shipping names for domestic and international shipments leads to confusion on the part of shippers.

MTB does not agree that the effective date of the final rule should be postponed until international bodies have deleted the same entries from their lists. MTB has submitted a paper to the United Nations Committee of Experts on the Transport of Dangerous Goods recommending that the entries removed from the HMT be removed from the list in Chapter 2 of its Recommendations. Indeed many of those names appear on the international lists only because the international bodies drew heavily on the HMT in their initial choice of descriptions.

Several of the materials removed from the HMT do not satisfy the definition of any specific DOT hazard class. They were regulated in a class (ORM-C) that is not recognized by international bodies. That situation can cause greater confusion for shippers, both domestically and internationally, than inconsistency between the two tables.

The other ten petitioners objected to the deletion of the proper shipping name "Resin solution", Flammable liquid. In the preamble to the final rule, it was stated that the entry "Resin solution", Flammable liquid was inadvertently left out of the notice and that proper shipping name also was being removed. Although MTB still believes that the proper shipping name is vague, the entry is restored to the HMT because of the procedural error that did not give an opportunity for public comment on its removal. Several of these petitioners objected also to the removal of the entry "Resin solution", Combustible liquid. This entry was in the notice of proposed rulemaking, Notice No. 82-4 (47 FR 25157) and public comment was received and addressed in the preamble

to the final rule. The petitioners did not furnish adequate justification to support a change in that amendment.

The entry "Road asphalt" was not removed in the final rule but was inadvertently removed from § 173.131. This document corrects that error by adding "Road asphalt" in the heading and text of § 173.131. Also, the entry "Paper scrap" was removed from the HMT but the corresponding section in Part 173 was not removed. That oversight is corrected in this document by removing § 173.1075.

The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.*).

Based on limited information available concerning size and nature of entities likely to be affected by this amendment, I certify that this amendment will not have a significant economic impact on a substantial number of small entities because the overall economic impact of this amendment will be minimal. A regulatory evaluation and environmental assessment of the final rule are available for review in the docket. The economic impact of this document has been found to be so minimal that further evaluation is unnecessary.

List of Subjects

49 CFR Part 172

Hazardous materials transportation,
Labeling Packaging and containers

49 CFR Part 173

Hazardous materials transportation,
Packaging and containers.

In consideration of the foregoing, 49 CFR Parts 172 and 173 are amended as follows:

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. In § 172.101, the Hazardous Materials Table is amended by adding the following entry:

§ 172.101 Purpose and use of hazardous materials table.

HAZARDOUS MATERIALS TABLE

• CAW	Hazardous Materials description and proper shipping names	Hazard class	Identification number	Labels required if not excepted	Packaging		Maximum net quantity in one package		Water shipments		
					Excep-tions	Specific require-ments	Passenger carrying aircraft or railcar	Cargo aircraft only	Cargo ves-sel	Pass-enger vessel	Other require-ments
(1)	(2) ... (ADD) ... (filler solution (water com-pound, 50%))	(3)	(2)(4)	(4)	(5)(a)	(5)(b)	(6)(a)	(6)(b)	(7)(a)	(7)(b)	(7)(c)
		Flammable liquid	UN 1993	Flammable liquid	173.118	173.119	1 quart	55 gallons	1, 2	1	

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

§ In § 173.131, the heading and the introductory text of paragraph (a) are revised to read as follows:

§ 173.131. Road asphalt, or tar, liquid.

(a) Road asphalt, or tar, liquid, must be packed in specification containers as follows:

§ 173.1075. [Removed and reserved]

3. Section 173.1075 is removed and reserved.

(49 U.S.C. 1803, 1804, 1808; (49 CFR 1.53, Appendix A to Part 1))

Issued in Washington, D.C. on April 4, 1984.

L. D. Benishak,

Director, Materials Transportation Bureau.

(FR Doc. 84-9788 Filed 4-10-84; 2:45 am)

BILLING CODE 4910-60-M

Federal Register / Vol. 49, No. 71 / Wednesday, April 11, 1984 / Rules and Regulations

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